

EXHIBIT 10

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Claude M. Stern (Bar No. 96737)

2 claudestern@quinnemanuel.com

Evette D. Pennypacker (Bar No. 203515)

3 evettepennypacker@quinnemanuel.com

Michael F. LaFond (Bar No. 303131)

4 michaelafond@quinnemanuel.com

555 Twin Dolphin Dr., 5th Fl.

5 Redwood Shores, California 94065

Telephone: (650) 801-5000

6 Facsimile: (650) 801-5100

7 Derek J. Tang (Bar No. 296230)

derektang@quinnemanuel.com

8 50 California St., 22nd Fl.

San Francisco, California 94111

9 Telephone: (415) 875-6600

Facsimile: (415) 875-6700

10 Attorneys for uCool, Inc.

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN FRANCISCO DIVISION

14
15 Lilith Games (Shanghai) Co. Ltd.,

16 Plaintiff,

17 vs.

18 uCool, Inc. and uCool Ltd.

19 Defendant.

CASE NO. 3:15-cv-01267-SC

**DECLARATION OF JACKY CHEUNG IN
SUPPORT OF DEFENDANT UCOOL,
INC.'S OPPOSITION TO PLAINTIFF
LILITH GAMES (SHANGHAI) CO.
LTD.'S MOTION FOR PRELIMINARY
INJUNCTION**

1 I, Jacky Cheung, declare as follows:

2 1. I make this declaration of my own personal, firsthand knowledge and, if called and
3 sworn as a witness, I could and would testify competently thereto.

4 2. I am the CEO of Trinity Tale Group, Co. Ltd. ("Trinity Tale"), a general
5 contracting company that develops entertainment and internet related software. Trinity Tale
6 works as an outside developer for companies that have an idea for a game they wish to market or
7 publish, but who may not have the infrastructure to develop a game wholly in-house. Over the
8 past four years, Trinity has collaborated with Huwa IP Holding LTD ("Huwa") to develop the
9 successful games Tynon and Heroes Charge.

10 **Trinity Tale's Development Process**

11 3. As a general contracting company, Trinity Tale serves customers that have a wide
12 variety of needs and schedules. An efficient method of serving such a diverse group is to engage
13 subcontractors. That way, Trinity Tale can appropriately match up the subcontractors with
14 projects that play to their strengths and assemble teams of contractors that have collaborated
15 successfully in the past.

16 **Heroes Charge Was Created As a Mobile Version of Huwa's Tynon**

17 4. In May 2013, Daisy Chong of Huwa contacted me about making a version of
18 Tynon that could be played on mobile devices. Trinity Tale had previously worked with Huwa to
19 develop Tynon for play on personal computers, and it had become both a critical and commercial
20 success. However, Tynon could not be played on mobile devices. Thus began the development
21 of the game that eventually became Heroes Charge. Daisy Chong told me that David Guo from
22 uCool would be the primary contact to discuss marketing requirements during the development of
23 Heroes Charge.

24 5. As it was communicated to me, Huwa's original plan was to convert Tynon into a
25 mobile game. However, that turned out to be impractical because mobile phone screens are much
26 smaller than computer screens, and much of the Tynon design and artwork would need to be
27 changed in order to compensate for this difference. Mobile phones also use a touch screen
28 interface, whereas Tynon was played with a mouse, so the user interface needed significant

1 modifications.

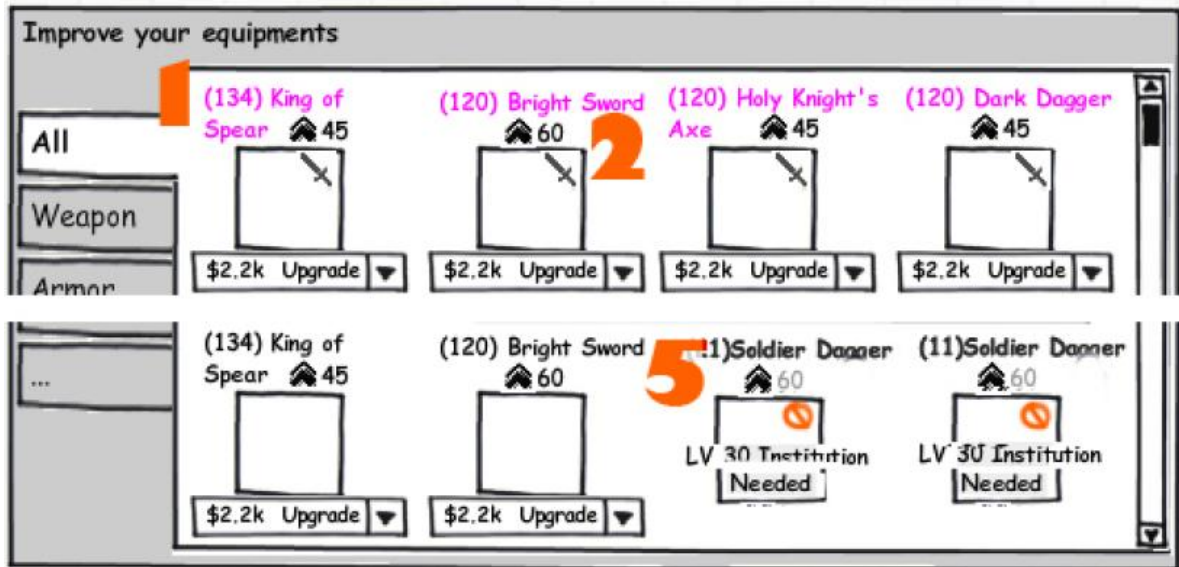
2 6. Ultimately, we settled upon a plan to use Tynon as a theme, but to redesign the user
3 interface, sound effects, and art, as well as incorporate features of mobile phones that are not
4 available on computers. This was reflected in the contract Huwa and Trinity Tale signed on July
5 15, 2013. A true and correct copy of that contract is attached to this declaration as **Exhibit A**.
6 Among the provisions of the July 15 contract were the following specifications:

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

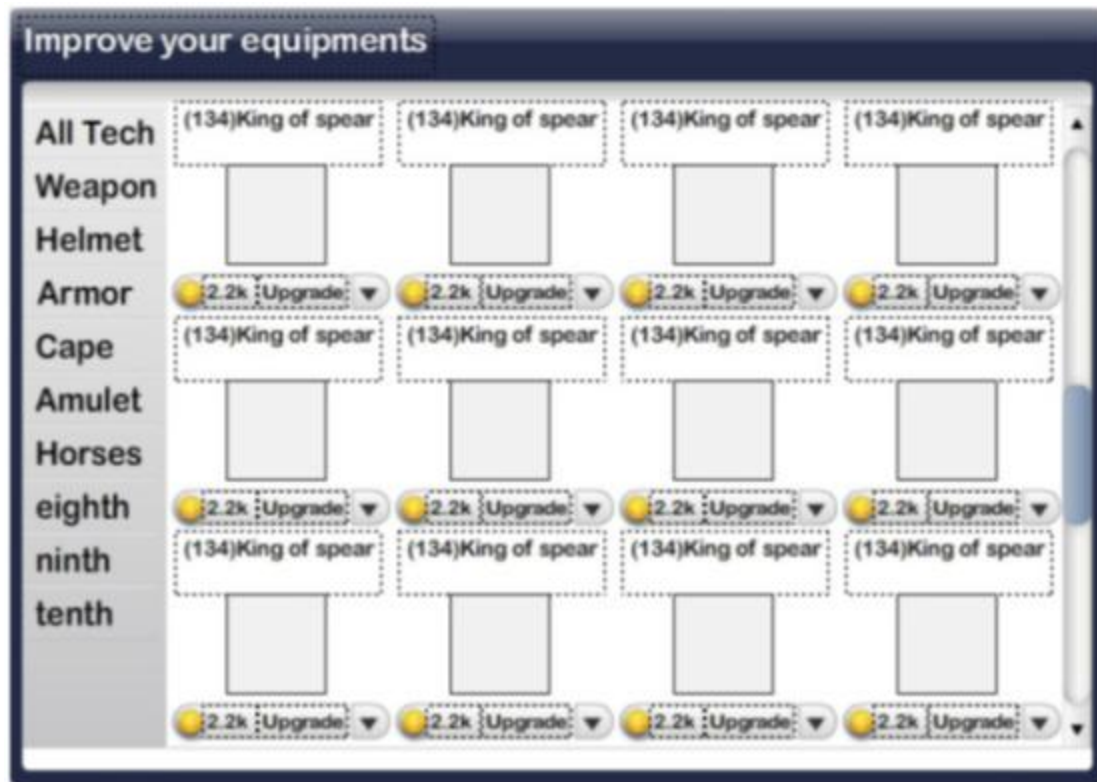
17 7. As called for in the contract, Trinity Tale received a copy of the Tynon code and
18 began the process of assigning the appropriate subcontractors. Once the agreement was signed,
19 Trinity Tale set to work immediately. The first subcontracting agreement was signed on July 20,
20 2013. A true and correct copy of Trinity Tale's standard subcontracting agreement, with
21 redactions, is attached to this declaration as **Exhibit B**; which agreement governed Trinity's
22 subcontractor relationships during the development of Heroes Charge. The first planning
23 documents were developed in August of 2013, and the first lines of code for what became the
24 Heroes Charge game were written before the start of 2014.

25 **Evolving Tynon to Heroes Charge**

26 8. Since Heroes Charge was developed as a mobile version of Tynon, the user
27 interface is based upon the original Tynon planning documents. For example, this is the original
28 Mock-Up of the item improvement screen as drawn for Tynon in June of 2011:



The basic layout, includes displaying equipment in a series of boxes, with tabs that run along the side and allow the user to switch between different categories of equipment (e.g. "weapon" and "armor"). Drawings like this were then coded into a very basic user interface before art was added. This during the development of Tynon, these designs were developed into a rudimentary interface before art was added:



Once unique art was developed, the finished product appears in Heroes Charge like this:



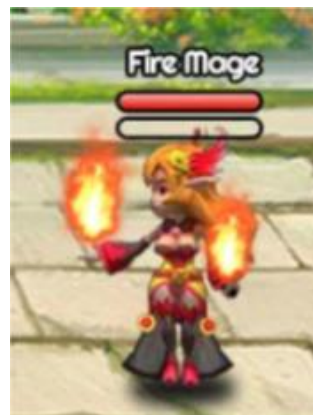
As can be seen from the above art, the overall design of this screen was derived from the Tynon drawings: items are displayed in boxes in the middle of the screen, and there is a line of tabs running down the side where the user can switch between different categories of equipment. The other user interface screens are similarly derivative of the original Tynon planning documents.

9. The characters that appear in Heroes Charge were similarly developed from the Tynon Planning documents. For example, this drawing from a 2012 Tynon development document became a character in both Tynon and Heroes Charge:

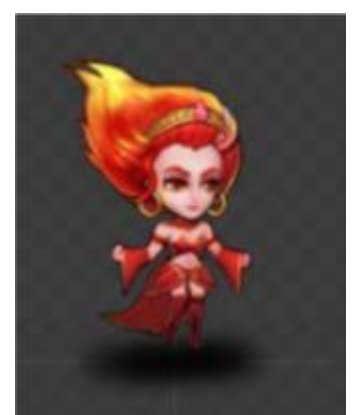
2012 Tynon Development Drawing



Tynon Character



Heroes Charge Character

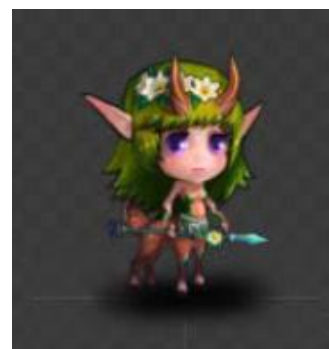
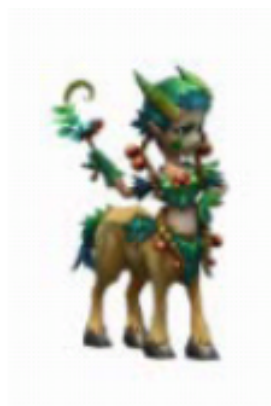
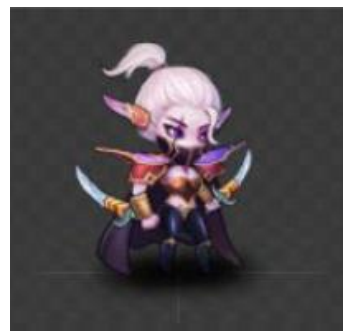
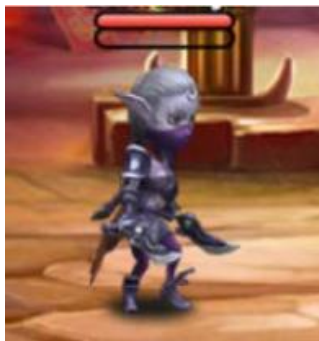


10. The major differences between how the characters appear in Tynon and how they

appear in Heroes Charge is a result of the plan to develop Heroes Charge specifically for mobile devices. To compensate for the smaller screen on a mobile device two major changes were made. First, the characters needed more consistent color schemes; on a small screen the colors may blur slightly, so characters look cleaner if they are drawn using a limited color palette. Second, the character heads needed to be enlarged so that it would be easier for the player to discern character facial expressions and emotions. Here are some side-by-side examples of how the Tynon characters were transformed through this process:

Original Tynon Art (2012)

New Art For Heroes Charge (in development 2013)



As demonstrated here, for each character, the head-to-body ratio is increased, and fewer colors are used in the Heroes Charge version. However, the characters maintain their overall look and feel, in keeping with the Tynon theme.

Heroes Charge is Completed but Continuously Evolving

11. Even though a completed version of Heroes Charge was delivered to Huwa in July of 2014, Trinity Tale continues to work with subcontractors to add new features to Heroes Charge. This was part of the initial Heroes Charge design plan: to create a game that incorporates player feedback and offers regular improvements and new features to keep players' interest.

12. The agreement between Huwa and Trinity Tale reflects this development plan. Specifically, Attachment A calls for the introduction of up to “two new [features] each month during the maintenance period.” Per this agreement, additional features have been added to Heroes Charge at a rate of up to two per month. Additionally, where Huwa has received serious critical feedback and wishes to see changes made to Heroes Charge features, Trinity Tale will accommodate those changes.

13. Among the critical feedback that prompted changes were complaints received from Lilith via Ms. Chong and David Guo . For example, I was informed by Ms. Chong and David Guo in August of 2014 that Lilith complained about alleged visual, non-code similarities between Heroes Charge and a game made by Lilith, including gameplay, character and template similarity. However, I disagreed with Lilith's claims that any visual similarities between the games was wrongful, because at that time there were already many games available in the market with artwork and gameplay, similar to that in Heroes Charge, so I did not think it was credible that Lilith could claim exclusive rights to those features. Such games include (but are not limited to):

Name	Developer/Publisher	Release Date
DOTA Alliance	Changyou (Beijing)	March 2014
DOTA Goddess	APD (Korea) / Youlonteng (Beijing)	Sept 2013
Heroes League Legend	Chilijoy (Shanghai) / ZOGame (Shenzhen)	May 2014

Everybody's Hero	Locojoy (Beijing)	Dec 3 2013
Let Those Three Kingdoms Go	Mobarts (Beijing) / Tencent Games	Jan 2014
I am MT	Babeltime (Beijing)	Dec 5 2013
Everybody's "All Men Are Brothers"	Morefun Studio Group / Tencent Games	March 2014
Happy Journey To the West	Lightspeed Studios / Tencent Games	March 2014
Mini Journey To the West	NetEase	April 2014
I am Naruto	Heatwave Interactive	Jan 2014
Blade Master Legend	Locojoy (Beijing)	Aug 2014

Also, as of August 2014 I was not aware of complaints regarding alleged code copying nor was I aware of or believe that there had been any code copying.

14. However I instructed the art subcontractors to create new art anyway. The new art was introduced during August and September of 2014. The new art made substantial changes to many of the characters, including the Admiral character. The Admiral was represented as a man during a short period of time in August 2014, but has been a woman since September 2014. These two images show the difference in the art work:

Heroes Charge Today



Heroes Charge in August 2014



Looking at the above images, the character art changed. The “admiral” character (center-left of both images) is now a woman instead of a man, and has a redesigned uniform and hat. Likewise, the other characters’ appearances have changed: for example the archer no longer wears a hood and the dwarf’s helmet no longer has horns.

New Heroes Charge Will Have No Lua Code

15. The code for Heroes Charge has also changed over time, and continues to change both in response to feedback and concerns relayed by Huwa. As noted in the contract above, there are three parts to the Heroes Charge source code: client, server, and middleware. Including all three parts of the source code, there are over three million lines of code in Heroes Charge, less than 10% of which is written in the Lua script programming language. The Lua code is found predominantly in the client part of the program.

16. In April of 2015, I was contacted by Ms. Chong and asked to arrange for an update to the source code for Heroes Charge. The new version of Heroes Charge is based on the Unity framework, as opposed to the Cocos2dx framework of prior versions of Heroes Charge. For compatibility with this framework, the new version of Heroes Charge contains no Lua code. Instead, it is programmed in the C# language.

17. I have taken steps to insure that the new Heroes Charge source code is developed

independently from any prior Lua source code. Accordingly, I have arranged for the new Heroes Charge to be programmed by a different group of subcontractors than those who worked on the original Heroes Charge client. No programmer who wrote the original Lua code for Heroes Charge is also involved in the rewrite. Furthermore, the subcontractors involved in the rewriting process have not been given access to the Lua code of any prior version of Heroes Charge, and have been instructed not to refer to such code.

18. The new Heroes Charge also features a revised user interface that will replace the interface of prior versions of the game. As of the signing of this declaration, 90% of the functionality in Heroes Charge has already been implemented in C#. I have been informed by the subcontractors working on the rewrite that the new, C#/Unity-based Heroes Charge will be beta-tested during the last two weeks of July, 2015. The goal is to have this new game uploaded to app stores by the middle of August, 2015.

Huwa Owns the Intellectual Property Embodied in Heroes Charge

19. Trinity Tale's agreements with subcontractors and software developers contain provisions that state: (1) the content of software created by Trinity Tale will be entirely original; and (2) the customer will own all of the intellectual property rights in the newly created software.

20. Trinity Tale's subcontractor agreements also include express grants of intellectual property rights, and protections against copyright infringement. For example, Sections 27 and 29 of the subcontractor agreement state:

[REDACTED]

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[REDACTED]

21. In the above quoted sections, Trinity Tale is Party A, and the subcontractor is Party B. Even though each subcontract may include slight variations, these clauses protecting intellectual property appear in all of Trinity Tale's subcontractor agreements and mirror the agreement that Trinity entered into with Huwa. In the contract between Huwa and Trinity, Article 12 explicitly includes clauses stating:

[REDACTED]

Lilith's Accusations Cannot Be Verified

22. In March of 2015, I was contacted by Ms. Chong and David Guo and alerted to the accusations Lilith Games (Shanghai) Co. Ltd. was making against Heroes Charge. I looked for information about Lilith's accusations and was able to find online news articles showing pictures of the two games, as well as a video post on a Facebook page in which a Lilith "copyright notice" appears to be generated within Heroes Charge.

23. I attempted to recreate the appearance of Lilith's "copyright notice" within Heroes Charge, but I could not get it to appear.

24. I took care to study the "copyright notice" video at length. At first I found the video very confusing because the code for the "Rules Screen" within the "Ancient Temple" feature

1 should not respond to "tapping" on the rule numbers at all. I also asked the subcontractors who
2 had worked on the "Ancient Temple" feature, and they confirmed that the "Rules Screen" should
3 not respond in any way to a user tapping on the rule numbers.

4 25. Nonetheless, after repeatedly watching the "copyright notice" video, I was able to
5 determine all of the steps taken by the user in the video and I tried to repeat them. I was able to
6 perform all of the same steps with one exception: I could not load the same "save point" that
7 appears in the video, I simply did not have access to that user account. However, using a
8 different account, I was able to: (1) open the "Ancient Temple" feature; (2) open the "Rules"
9 screen as shown in the video; and (3) repeatedly tap the number "5" as it appeared on the screen, at
10 least as many times as shown in the video. No matter how many times I tried these steps, I was
11 not able to see the "copyright notice" created within Heroes Charge as depicted in the video.

12 26. I contacted the subcontractors who had worked on Heroes Charge and asked if any
13 of their employees were able to recreate the "copyright notice." It is my understanding that none
14 of the subcontractors were able to recreate the appearance of the "copyright notice" depicted in the
15 video.

16 27. After I learned about Lilith's copyright notice allegation, I also asked the
17 subcontractors if there was any possibility that code from Lilith's game could have become a part
18 of Heroes Charge. The subcontractor told me at that time that no code had been taken from Lilith,
19 or any program put out by Lilith.

20 28. I further learned that one of the subcontractors, who contributed artwork to
21 Heroes Charge, also performed work for Lilith. I was unable to find out what work that
22 subcontractor had previously performed for Lilith. However, I confirmed that none of Lilith's
23 code was used by that subcontractor to produce content for Heroes Charge.

24 29. I have recently learned that uCool's expert examined Lilith's Lua code for DOTA
25 Legends and the Lua code used in Heroes Charge and saw many similarities between the code.
26 After learning this, I again asked the subcontractors that developed the original Heroes Charge
27 code whether code from Lilith's game was part of Heroes Charge. The subcontractor again told
28 me that no code had been taken from Lilith or any program from Lilith. In addition, I have

reviewed the list of individuals set forth in Lilith's Interrogatory Responses that I understand Lilith says have had access to Lilith's code, and I am not aware of anyone on that list also working on the code for Heroes Charge.

30. After learning about uCool's expert's examination of the Lua code, I pressed the subcontractor to provide me with more information about the development process used for the Heroes Charge source code. The subcontractor explained that it is common practice for the programmers to consult public sources on the Internet as reference points for development. After receiving the Heroes Charge assignment, the subcontractor went online to look for such references and found Lua code on the Internet. The subcontractor told me that there were no references to Lilith or copyright notices associated with this Lua code, and because the code was publicly available, the subcontractor believed that it was okay to use this code as a reference point to develop the Lua code for Heroes Charge. It is my understanding based on discussions with the subcontractor that this is what the subcontractor did.

31. As of the date of this declaration, and based on my investigation, I am not personally aware of any Lilith code being provided to Trinity Tale or a Trinity Tale subcontractor by a former or current Lilith employee. I am also not personally aware of any Lilith source code being used in the development of Heroes Charge. Nor am I personally aware of Trinity Tale or any Trinity Tale subcontractor having or gaining improper access to Lilith's source code.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed July 17, 2015.

/s Jacky Cheung
Jacky Cheung

Exhibit A to the Declaration of Jacky Cheung

Lilith Games (Shanghai) Co. Ltd v.
uCool, Inc. and uCool Ltd.
Case No. 3:15-cv-01267-SC
United States District Court
Northern District of California

Exhibit B to the Declaration of Jacky Cheung

Lilith Games (Shanghai) Co. Ltd v.
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Case No. 3:15-cv-01267-SC
United States District Court
Northern District of California